



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-896]

Magnesium Metal from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") is conducting the administrative review of the antidumping duty order on magnesium metal from the People's Republic of China ("PRC"). The period of review ("POR") is April 1, 2012, through March 31, 2013. This review covers one PRC company, Tianjin Magnesium International, Co., Ltd. ("TMI"). The Department preliminarily finds that TMI did not have reviewable entries during the POR. We invite interested parties to comment on these preliminary results.

DATES: Effective Date: (Insert date published in the *Federal Register*)

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-4243 or (202) 482-5848, respectively.

Scope of the Order

The product covered by this antidumping duty order is magnesium metal from the PRC, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw

materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this order includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes; magnesium ground, chipped, crushed, or machined into rasping, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an “ASTM Specification for Magnesium Alloy”<sup>1</sup> and are thus outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as “alloy” magnesium).

The scope of this order excludes: (1) all forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an “ASTM Specification for Magnesium Alloy”<sup>2</sup>; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (Al<sub>2</sub>O<sub>3</sub>), calcium

---

<sup>1</sup> The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

<sup>2</sup> The material is already covered by existing antidumping orders. *See Notice of Antidumping Duty Orders: Pure Magnesium from the People’s Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995); and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People’s Republic of China*, 66 FR 57936 (November 19, 2001).

aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.<sup>3</sup>

The merchandise subject to this order is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Background

On April 2, 2013, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on magnesium metal from the PRC for the period April 1, 2012 through March 31, 2013.<sup>4</sup> On April 30, 2013, U.S. Magnesium LLC (“U.S. Magnesium”), a domestic producer and Petitioner in the underlying investigation of this case, made a timely request that the Department conduct an administrative review of TMI.<sup>5</sup> On June 3, 2013, in accordance with section 751(a) of the Tariff Act of 1930, as amended (“the Act”), the Department published in the *Federal Register* a notice of initiation of this antidumping duty administrative review.<sup>6</sup> On July 23, 2013, TMI submitted a letter to the Department certifying that it did not export magnesium metal for consumption in the United States during the POR.<sup>7</sup>

---

<sup>3</sup> This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000-2001 investigations of magnesium from China, Israel, and Russia. See *Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People’s Republic of China*, 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

<sup>4</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 78 FR 19645 (April 2, 2013).

<sup>5</sup> See letter from U.S. Magnesium, “Magnesium Metal from the People’s Republic of China: Request for Administrative Review,” dated April 30, 2013.

<sup>6</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 33052 (June 3, 2013).

<sup>7</sup> See letter from TMI, “Magnesium Metal from the People’s Republic of China; A-570-896; Certification of No Sales by Tianjin Magnesium International, Co., Ltd.,” dated July 23, 2012 {sic}, at 1.

On January 6, 2014, the Department placed on the record information obtained in response to the Department's query to U.S. Customs and Border Protection ("CBP") concerning imports into the United States of subject merchandise during the POR.<sup>8</sup> This information indicates that there were no entries of subject merchandise during the POR that had been exported by TMI. In addition, on January 16, 2014, we notified CBP that we were in receipt of a no-shipment certification from TMI and requested CBP to report any contrary information within 10 days.<sup>9</sup> CBP did not report any contrary information.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.<sup>10</sup> Thus, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the preliminary results of review was established as Thursday, January 16, 2014.<sup>11</sup> On January 7, 2014, we extended the deadline for the preliminary results by 120 days.<sup>12</sup> The preliminary results of this review are due no later than May 16, 2014.<sup>13</sup>

#### Preliminary Determination of No Shipments

As noted in the "Background" section above, TMI submitted a timely-filed certification indicating that it had no shipments of subject merchandise to the United States during the POR.

In addition, CBP did not provide any evidence that contradicts TMI's claim of no shipments.

---

<sup>8</sup> See Memorandum to the File, "2012-2013 Administrative Review of Magnesium Metal from the People's Republic of China: U.S. Customs and Border Protection Data," dated January 6, 2014 ("CBP Query").

<sup>9</sup> See Memorandum to the File, "Magnesium Metal from the People's Republic of China: 12-13 Administrative Review: Placing No-Shipment Inquiry on the Record," dated January 17, 2014, at Attachment 1 Customs Message 4016312, "No Shipments Inquiry," dated January 16, 2014.

<sup>10</sup> See Memorandum to the File, "Magnesium Metal From the People's Republic of China: Tolling of Deadlines for Shutdown of the Federal Government," dated December 29, 2013.

<sup>11</sup> *Id.*

<sup>12</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled "Magnesium Metal from the People's Republic of China: Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review," dated January 7, 2014.

<sup>13</sup> *Id.*

Further, on January 6, 2014, the Department released to interested parties the results of a CBP query that it intended to use for corroboration of TMI's no shipment claims.<sup>14</sup> The Department received no comments from interested parties concerning the results of the CBP query.

Based on TMI's certification and our analysis of CBP information, we preliminarily determine that TMI did not have any reviewable entries during the POR. In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in non-market economy ("NME") cases, it is appropriate not to rescind the review in this circumstance but, rather, to complete the review with respect to TMI and issue appropriate instructions to CBP based on the final results of the review.<sup>15</sup>

#### Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at

---

<sup>14</sup> See CBP Query.

<sup>15</sup> See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011) and the "Assessment Rates" section, below.

<http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.<sup>16</sup> Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Additionally, pursuant to a recently announced refinement to its assessment practice in NME cases, if the Department continues to determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate. For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or

---

<sup>16</sup> See 19 CFR 351.310(c).

withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for TMI, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI in the most recently completed review of the company; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 141.49 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

---

Paul Piquado,  
Assistant Secretary  
for Enforcement and Compliance.

March 26, 2014  
Date

[FR Doc. 2014-07257 Filed 03/31/2014 at 8:45 am; Publication Date: 04/01/2014]